

after a public agency determines that the child needs a surrogate parent.

(Authority: 20 U.S.C. 1439(a)(5))

DISPUTE RESOLUTION OPTIONS

§ 303.430 State dispute resolution options.

(a) *General.* Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in paragraphs (b) through (e) of this section.

(b) *Mediation.* Each lead agency must make available to parties to disputes involving any matter under this part the opportunity for mediation that meets the requirements in § 303.431.

(c) *State complaint procedures.* Each lead agency must adopt written State complaint procedures to resolve any State complaints filed by any party regarding any violation of this part that meet the requirements in §§ 303.432 through 303.434.

(d) *Due process hearing procedures.* Each lead agency must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in § 303.421(a), by either adopting—

(1) The part C due process hearing procedures under section 639 of the Act that—

(i) Meet the requirements in §§ 303.435 through 303.438; and

(ii) Provide a means of filing a due process complaint regarding any matter listed in § 303.421(a); or

(2) The part B due process hearing procedures under section 615 of the Act and §§ 303.440 through 303.449 (with either a 30-day or 45-day timeline for resolving due process complaints, as provided in § 303.440(c)).

(e) *Status of a child during the pendency of a due process complaint.* (1) During the pendency of any proceeding involving a due process complaint under paragraph (d) of this section, unless the lead agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified

in the IFSP that is consented to by the parents.

(2) If the due process complaint under paragraph (d) of this section involves an application for initial services under part C of the Act, the child must receive those services that are not in dispute.

(Approved by Office of Management and Budget under control number 1820-0678 and 1820-NEW)

(Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A), 1415(f)(3)(A)-(D), 1439)

MEDIATION

§ 303.431 Mediation.

(a) *General.* Each lead agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

(b) *Requirements.* The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process—

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under part C of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.

(ii) The lead agency must select mediators on a random, rotational, or other impartial basis.

(3) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(5) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding